

How to approach the 2016 ISDA Variation Margin Protocol

Listed below are some key questions parties can consider in advance of using the 2016 ISDA Variation Margin Protocol. Because the Protocol is intended to provide documentation solutions for a variety of situations, certain aspects of the Protocol will not be relevant to every adhering party. While there is no single correct way to approach the Protocol, this list below presents questions in a logical sequence to facilitate focusing on those elements that may be relevant to you. *This is not intended to be a comprehensive list of all the elections parties need to make to use the Protocol.* Please note that the below questions need to be considered for each counterparty pair.

Preparatory Questions – Applicable Exhibit

1. What documentation (Master Agreement and/or CSA) do I have in place with my counterparty?¹
 2. What “Method” (Amend, Replicate-and-Amend or New CSA) do I want to use?²
 3. What Method does my counterparty want to use? Am I willing to use their preferred Method?
- Use the above questions to determine which Exhibit to the Protocol is relevant for you and your counterparty and which further questions and options you need to address in your Questionnaire in order to use that Exhibit.
 - Relevant Exhibits can be determined as follows:
 - If you do not have a Master Agreement in place with your counterparty, your option is to elect to enter into a Protocol Master Agreement and agree the governing law with the counterparty. The applicable Exhibit will be the New CSA Exhibit for that governing law.³
 - If you have a Master Agreement in place with the counterparty but no CSA and you wish to create a CSA, your option is the New CSA Method. The applicable New CSA Exhibit is the one that matches the governing law of your Master Agreement.⁴
 - If you have a Master Agreement and CSA in place, you and your counterparty can choose any Method. Use information on the Method you and your counterparty prefer⁵, and the form of your existing CSA, to identify the applicable Exhibit.⁶

Applicable Regulation Questions

1. What margin regimes apply to me when facing my counterparty?
2. What margin regimes apply to my counterparty when facing me? (Check with counterparty)

¹ See “What documentation scenarios does the Protocol cover?” [in the FAQ](#)

² See “What are the Protocol “Methods” and how do I decide between them?” [in the FAQ](#)

³ See section 6(ii) of the Protocol

⁴ See section 5(c) of the Protocol

⁵ Parties can determine each others’ preferences by exchanging draft Questionnaires in ISDA Amend and reviewing the reconciliation information in ISDA Amend.

⁶ See section 5 of the Protocol

- Use the above questions to determine all the Covered Margin Regimes that you and your counterparty are likely to select when exchanging Questionnaires⁷, and therefore the specific terms that will apply under the relevant Exhibit.⁸ **Note:** In filling out your own Questionnaire for a particular counterparty, you should only select the margin regimes that apply to you and not those that apply to your counterparty.

Questions to Address if Using the Amend Method:

1. Do I want the amendments to go effect shortly after I exchange Questionnaires rather than on the relevant compliance date?⁹
2. Do I want to change the Notification Time from the default selection provided in the Exhibit?¹⁰
3. Do I want to reset the Independent Amount in my CSA to zero?¹¹

Questions to Address if using the Replicate-and-Amend Method:

1. Do I want my newly created Replica CSA to cover regulated trades only, or all Transactions that I execute after applicable regulations go into effect?¹²
2. Do I want to change the Notification Time in my Replica CSA from the default selection provided in the Exhibit?¹³
3. Do I want to reset the Independent Amount in my Replica CSA to zero?¹⁴

Questions to address if using the New CSA Method:

1. Do I want my New CSA to cover regulated trades only, or all Transactions that I execute after applicable regulations go into effect? ¹⁵
2. Do I want to import legacy Transactions into the New CSA (*i.e.* apply the terms of the New CSA to those legacy Transactions) and if so, do I want my New CSA to start governing trades shortly after I exchange Questionnaires rather than when applicable rules go into effect? ¹⁶
3. What commercial terms do I want to apply (Base Currency, Eligible Collateral, Minimum Transfer Amount, Interest on cash collateral)? ¹⁷
4. Do I want my counterparty to act as Valuation Agent? ¹⁸
5. Do I want the Canadian cash transfer terms to apply? ¹⁹

⁷ Parties can determine this by exchanging draft Questionnaires in ISDA Amend and reviewing the reconciliation information.

⁸ See “How does the Protocol determine which Covered Margin Regime(s) apply to a counterparty pair?” [in the FAQ](#).

⁹ See Questionnaire Part VIII and the related instructions and annotations.

¹⁰ See Questionnaire Part VII and the related instructions and annotations.

¹¹ See Questionnaire Part IX and the related instructions and annotations.

¹² See Questionnaire Part X and the related instructions and annotations.

¹³ See Questionnaire Part VII and the related instructions and annotations.

¹⁴ See Questionnaire Part IX and the related instructions and annotations.

¹⁵ See Questionnaire Part X and the related instructions and annotations.

¹⁶ See Questionnaire Part XI Question 5 and the related instructions and annotations.

¹⁷ See Questionnaire Part XI generally and the related instructions and annotations.

¹⁸ See Questionnaire Part XI Question 7 and the related instructions and annotations.

¹⁹ See Questionnaire Part XIII and the related instructions and annotations.